

# Fair Political Practices Commission

## Memorandum

**To:** Chairman Randolph, Commissioners Blair, Downey, Huguenin and Remy

**From:** John W. Wallace, Assistant General Counsel  
Luisa Menchaca, General Counsel

**Subject:** June 2006 Work Plan Revisions

**Date:** May 25, 2006

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### I. INTRODUCTION

Each year the Commission approves a regulatory work plan for the next calendar year. The plan provides for quarterly work plan revisions. Attached is the June update to the regulatory work plan for calendar year 2006 reflecting changes during the second quarter.

### II. PROPOSED REVISIONS

#### A. Campaign Projects<sup>1</sup>

**Item 1. McCain-Feingold:** Under the recently-amended federal counterpart of the PRA, a specified percentage of certain expenditures jointly relating to federal and state/local elections must be reported as attributable to the federal election. This project considers whether a more accurate method for allocating such expenditures may be used in California. Staff has prepared and presented a draft letter to the Federal Elections Commission (FEC), seeking an advisory opinion on this issue.

***CHANGE:** Added to the currently planned July prenotice and September adoption hearing is an interested persons' meeting in June.*

**Item 3. Hard & Soft Money Bank Accounts:** Section 85303 sets limits on contributions received by committees and political party committees from individual contributors, for the purpose of making contributions to candidates for elective state office. However, section 85303(c) provides that no limits apply to contributions to such committees that are used for purposes *other* than making contributions to candidates for elective state office. This project investigates whether contributions in excess of the contribution limits to these committees should be required to be deposited into a separate bank account, in order to avoid circumvention of the contribution limits.

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<sup>1</sup> One item in this category was moved since the March update, but was completed prior to the presentation of the June update. (See item 11 on the attached regulation chart.)

**CHANGE:** *Added to the currently planned July prenotice and September adoption hearing is an interested persons' meeting in June.*

**Item 5. Recurring Credit Card Contributions:** Some contributions are set up to be paid out over a specified period of time, or on an ongoing basis. For example, the contributor may wish to contribute \$10 a month for an indefinite time period. This project explores whether the total amount of the contributions should be reported when the first payment is made, or whether disclosure should be made as each installment is actually paid.

**CHANGE:** *In order to accommodate additional hearings for regulation projects already presented to the Commission, this item has been rescheduled for prenotice discussion in September and adopting in November.*

**Item 7. One-Bank Account Rule -- Contributions Through Vendors:** Vendors sometimes run a website through which they collect candidate contributions and contributor information. Staff recommends that the Commission define the type of "account" this vendor creates in collecting and holding the contributions, specifying into which accounts the vendor may hold this money. In addition, a second similar issue concerns vendor fees. A vendor usually subtracts his fee from the money collected before transferring the money to the committee. The vendor is an agent of the committee and not an intermediary. Thus, when the vendor receives the contribution the committee is also deemed to have received it.

**CHANGE:** *In order to accommodate additional hearings for regulation projects already presented to the Commission, this item has been rescheduled for pre-notice discussion in September and adoption in November.*

**Item 10. Advertising Disclosure Cluster:** A primarily formed measure committee must disclose its two highest donors. A variety of issues have arisen regarding the construction of these provisions. Staff proposes regulatory action to refine these provisions of the Act.

**UPDATE:** *Of the 36 initiatives currently in circulation for signatures around the state, one initiative would affect the campaign advertising statutes in the Act. That initiative (SA2006RF0020) labels itself the "Truth in Initiatives Act of 2006." The "Truth in Initiatives Act of 2006" initiative would require the Legislative Analyst to prepare statements describing the principal financial support for and against each ballot measure, using the North American Industry Classification System (NAICS). It would also require disclosure statements to appear on ballots, sample ballots, ballot pamphlets, designated web sites, and in advertisements for and against ballot measures. In addition, it would permit legal challenges to the described disclosure statements within two to five days of issuance by the Legislative Analyst. Although most of the changes the Jacobs initiative proposes would affect the Elections Code, it also proposes adding two new sections to the campaign advertising statutes in the Act to affect its purpose. This initiative requires 373,816 signatures to qualify for placement on a ballot which must be submitted by August 18, 2006. In light of the pending measure, staff proposes to defer action on the advertising disclosure regulations and will update the Commission in December.*

**B. Conflict of Interest<sup>2</sup>**

**Item 2. Stem Cell Commission:** Two sections of the new law refer to the PRA (Health & Safety Code §§ 125290.30(g) & 125290.50). Staff proposes to investigate whether Prop 71 amended the Act indirectly, and the FPPC's role in advising/enforcing these provisions. (Carryover from 2005.)

***CHANGE:** This item was removed from the calendar and is being dealt with by the Executive Director in his review of the conflict of interest code for the Stem Cell Commission.*

**Item 6(b). Gifts to Immediate Family:** Regulation 18944 interprets § 82028 relating to gifts to an official's or a candidate's immediate family. Reg. 18944(a) provides that "[g]ifts given directly to members of an official's immediate family are not gifts to the official unless used or disposed of by the official or given by the recipient member of the official's immediate family to the official for disposition or use at the official's discretion." This project would add a specific provision stating that gifts given directly to an official but intended for use by the official's child (such as baby shower gifts), are gifts to the child. This project seeks to further clarify application of regulation 18944.

***NEW ITEM:** This project was originally part of the Wedding Gifts/Baby Showers and Receptions project (see item 6a on the chart). At the May Commission meeting the Commission approved a proposal to split this item from the other project and consider it as a separate item. An interested persons' meeting was held on May 10th and the item will be presented for adoption in July.*

**C. Administrative, Enforcement, and other Issues**

***NO CHANGES.***

**D. Other Miscellaneous Items**

***NO CHANGES.***

**ATTACHMENT`**

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<sup>2</sup> One item in this category was moved since the March update, but was completed prior to the presentation of the June update. (See item 6a on the attached regulation chart.)